



PLANNING COMMISSION SYNOPSIS

Monday, April 11, 2005

**STUDY SESSION
CANCELLED**

Discussion of Alcohol Sales

6:00 p.m. Regular Meeting
Council Chambers, Room 205, City Hall

801 North First Street
San Jose, California

Bob Levy, Chair
Bob Dhillon, Vice-Chair

Xavier Campos Jay James
Dang T. Pham
Christopher Platten James Zito

Stephen M. Haase, Director
Planning, Building and Code Enforcement

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 277-4576 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation and have not already identified yourself to the technician seated at the staff table, please do so now. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Bob Levy** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of ***Monday, April 11, 2005***. Please remember to turn off your cell phones and pagers.

If you want to address the Commission, **fill out a speaker card (located on the table by the door or at the technician's station), and give the completed card to the technician. Please include the agenda item number for reference.**

The procedure for this hearing is as follows:

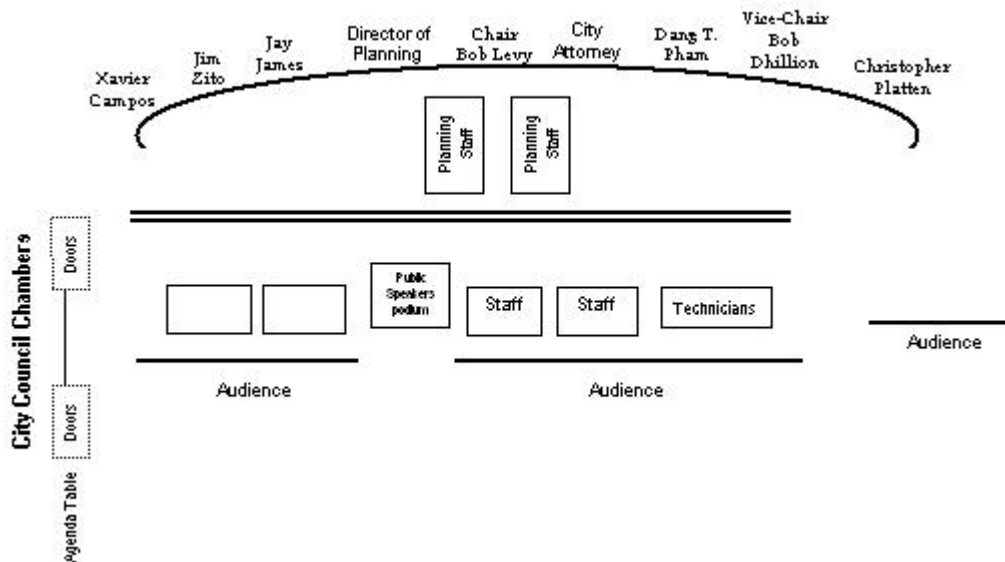
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Olga Guzman at olga.guzman@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2nd and 4th Wednesday at 6 p.m., unless otherwise noted. The remaining meeting schedule is attached to this agenda and the annual schedule is posted on the web at <http://www.sanjoseca.gov/planning/hearings/index.htm> Staff reports, etc. are also available on-line. If you have any questions, please direct them to the Planning staff at (408) 277-4576. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

1. ROLL CALL

ALL WERE PRESENT, PLATTEN ARRIVED AFTER ITEM 3.a. AND PHAM WAS ABSENT.

2. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should say so at this time.

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff or the public to have an item removed from the consent calendar and considered separately. If anyone in the audience wishes to speak on one of these items, please come to the podium at this time.

- a. **CP05-007**. Conditional Use Permit application to allow a billiards hall (pool room with seven tables) to operate within a new 5,335 square foot retail building on a .40 gross acre site in the CN Neighborhood Commercial Zoning District, located on south side of Senter Road, approximately 330 feet southeast of Lewis Road, (2955 SENTER RD) (Blue Creek Props LLC, Nguyen Hung And Tina, Owner). Council District 7. SNI: None. CEQA: Exempt.

CONTINUE TO 5-11-05 (5-0-1-1; PHAM ABSENT, PLATTEN ABSTAINED)

PULLED FROM CONSENT BY PUBLIC. STAFF REPORTED THAT AN ADDITIONAL MEMORANDUM HAD BEEN SUBMITTED BY THE POLICE DEPARTMENT IN OPPOSITION TO POOL HALL USE. POLICE REPRESENTATIVES COMMENTED THE OPPOSITION WAS RESULT OF EXPERIENCE WITH POOL HALL IN VICINITY, NOW CLOSED. THE APPLICANT'S REPRESENTATIVE STATED CONCERN THAT PROPOSED OPERATOR SHOULDN'T BE DENIED ABILITY TO OPERATE IN NEW BUILDING UNDER CONSTRUCTION BECAUSE OF PROBLEMS WITH PRIOR USE. OTHER MEMBERS OF PUBLIC ALSO EXPRESSED CONCERN ABOUT POTENTIAL INCREASE IN CRIME, PROXIMITY OF A CHURCH WITH DAILY CHURCH SCHOOL AND LANGUAGE CLASSES ACROSS THE STREET,

POTENTIAL INCREASE IN GANG ACTIVITY, AND PROXIMITY TO WALKING ROUTE TO PUBLIC SCHOOL. COMMISSIONER LEVY ASKED FOR CLARIFICATION AS TO WHETHER PRIOR POOL HALL SOLD ALCOHOL ON SITE, WHICH NEIGHBORHOOD RESIDENTS INDICATED WAS NOT THE CASE. COMMISSIONER ZITO ASKED IF SECURITY MEASURES WERE BEING PROPOSED AND APPLICANT RESPONDED THAT POLICE AND COMMUNITY CONCERN HAD JUST RECENTLY BECOME KNOWN. POLICE OFFICERS RESPONDED, IN RESPONSE TO COMMISSIONER DHILLON'S QUESTIONING, THAT THERE IS NOT ANOTHER POOL HALL CURRENTLY IN THE AREA. THE CITY ATTORNEY AND CHAIR LEVY INQUIRED WHAT RESTRICTIONS COULD BE PLACED ON OPERATION TO RESPOND TO POLICE CONCERNS, AND POLICE STAFF INDICATED INSUFFICIENT TIME TO FULLY DESIGN CONDITIONS BUT AGREED THAT AN ON-SITE SECURITY GUARD COULD BE APPROPRIATE. COMMISSIONER DHILLON COMMENTED THE APPLICANT HAD BEEN CAUGHT OFF-GUARD WITH POLICE STAFF OPPOSITION AND RECOMMENDED THAT APPLICANT SHOULD BE GIVEN CHANCE TO WORK WITH POLICE STAFF AND COMMUNITY TO DESIGN APPROPRIATE MEASURES AND RECOMMENDED CONTINUANCE FOR 30 DAYS.

- b. [CP04-098](#). Conditional Use Permit to construct a 15,038 square foot building for religious assembly uses at an existing church facility on a 3.38 gross acre site in the CP Pedestrian Commercial Zoning District, located on the west side of Saratoga Avenue, 500 feet southerly of Campbell Avenue (1735 SARATOGA AVENUE) (Westgate Community Bible Church, Owner). Council District 1. SNI: None. CEQA: Exempt.

APPROVED (5-0-2; PHAM AND PLATTEN ABSENT)

- c. [CP05-009](#). Conditional Use Permit to install three wireless communications antennas to an existing utility pole and an associated 90 square foot equipment cabinet on a 3.93 gross acre site in the A Agricultural Zoning District, located at/on east side of Highway 101, 1,300 feet southerly of Yerba Buena Avenue (3814 DOVE HILL RD) (Smith Lovetta E Trustee, Owner). Council District 8. SNI: None. CEQA: Exempt.

DEFER TO 5-11-05 (6-0-1; PHAM ABSENT)

PULLED FROM CONSENT BY APPLICANT AND PUBLIC. STAFF COMMENTED THAT APPLICANT HAD INDICATED A DESIRE TO MODIFY THE PROJECT. THE APPLICANT REQUESTED DEFERRAL FOR ONE MONTH TO ALLOW STAFF TO REVIEW ANTENNA HEIGHT OF APPROXIMATELY 27 FEET, INSTEAD OF 13 FEET AS ORIGINALLY PROPOSED. COMMISSIONER LEVY ASKED ANY SPEAKERS WHO HAD SUBMITTED CARDS WHO COULD NOT RETURN IN ONE MONTH TO COME FORWARD, BUT NO MEMBER OF THE PUBLIC SPOKE.

- d. [STREET VACATION](#). VACATION OF A PORTION OF SERENITY WAY AT CASUAL WAY. This is a request to vacate a triangular shape area along the south side of Serenity Way at the intersection of Casual Way. The area to be vacated is

approximately 2,503 square feet. The Department of Public Works has determined that this area is no longer needed for public street purposes and have no objections to the proposed vacation and recommends that it be approved. All concerned utility companies have been contacted and they have no objections to the proposed vacation provided that a public service easement is reserved. Accordingly, a public easement will be reserved over a portion of the proposed right-of-way vacation. Council District 10. CEQA: Exempt.

APPROVED (5-0-2; PHAM AND PLATTEN ABSENT)

- e. [PDC04-080](#). Planned Development Rezoning from R-1-2 Residential Zoning District to A(PD) Planned Development Zoning District to allow up to 12 single-family attached residential units on a 0.57 gross acre site, located on the west side of Dent Avenue, approximately 320 feet southerly of Branham Lane (4965 DENT AV) (Enfantino Edward F And Judith R Trustee, Owner). Council District 9. SNI: None. CEQA: Mitigated Negative Declaration.

RECOMMEND APPROVAL (6-0-1; PHAM ABSENT)

PULLED FROM CONSENT BY COMMISSIONER ZITO WITH CONCERN REGARDING TRAFFIC FROM PROJECT, AND PROJECT DESIGN. PUBLIC WORKS STAFF CLARIFIED PROJECT OF 12 ATTACHED UNITS IS SMALL ENOUGH SCALE TO BE EXEMPT, AND THAT THE DENT AVENUE CUL-DE-SAC HAS LOW TRAFFIC VOLUMES, WITH MAIN TRAFFIC OPERATION ISSUE THE TIMES OF PICK-UP AND DROP-OFF FOR ADJOINING PRIVATE SCHOOL, AND PUBLIC HIGH SCHOOL. STAFF CLARIFIED THE PROJECT IS MIXTURE OF ROWHOUSE AND GARDEN TOWNHOME STYLE DEVELOPMENT AND THAT PAVERS AND LUSH LANDSCAPING PROVIDE ENHANCED PEDESTRIAN ENVIRONMENT, AND PAVERS PROVIDE FOR PERVIOUS SURFACE TO REDUCE RUNOFF.

- f. [CP04-111](#). Conditional Use Permit to allow an 861-square foot second-story addition and site/landscape modifications at an existing gasoline service station on a 0.69 gross acre site in the CP Commercial Pedestrian Zoning District, located on the southwest corner of North Capitol Avenue and Berryessa Road (BERRY BLUE VALERO) (1111 N CAPITOL AV) (Capitol Berryessa Lp, Nguyen Bao and Le Anh, Owner). Council District 4. SNI: None. CEQA: Exempt.

APPROVED (5-0-2; PHAM AND PLATTEN ABSENT)

- g. [PDC05-018](#). Planned Development Rezoning from IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow a portion of an existing, industrial park building to be used for a gymnastics training center and to allow a reduction in the required parking ratio for the gymnastics training center use on a 2.35 gross acre site, located on the southeast corner of Great Oaks Boulevard and Via Del Oro (100 GREAT OAKS BL) (Span Partners Lp, Owner; Dave Peterson, California Sports Center, Developer). Council District 2. SNI: None. CEQA: Edenvale Redevelopment Project EIR Resolution No. 70021.

RECOMMEND APPROVAL (6-0-1; PHAM ABSENT)

PULLED FROM CONSENT BY COMMISSIONER ZITO FOR CLARIFICATION ON PARKING REQUIREMENTS. STAFF CLARIFIED REVISED DEVELOPMENT STANDARDS SPECIFIED ONE PARKING SPACE PER EVERY 3 STUDENTS, AND THAT PARKING WOULD BE ADEQUATE DURING THE WORK DAY, AND AMPLE DURING EVENINGS AND WEEKENDS WHEN INDUSTRIAL USES CLOSED. COMMISSIONER ZITO ASKED FOR CLARIFICATION FROM THE APPLICATION REGARDING OPERATION OF THE GYMNASIUM FACILITY. THE APPLICANT CLARIFIED TYPICAL 1 STAFF TRAINER PER EIGHT STUDENTS, AND THAT A 15-MINUTE GAP WAS PROGRAMMED BETWEEN CLASSES TO ALLOW SMOOTH PARKING OPERATION. COMMISSIONER JAMES INQUIRED IF TRAINERS, NOTED IN STAFF REPORT, WERE DIFFERENT THAN ON-SITE STAFF, AND APPLICANT CLARIFIED ALL STAFF ARE TRAINERS EXCEPT ONE ADMINISTRATIVE STAFF PERSON.

The following items are considered individually.

4. PUBLIC HEARINGS

- a. **CP04-048**. Conditional Use Permit (CUP) to allow for the continued operation of an existing entertainment and drinking establishment with late night uses until 2:00 a. m., as well as, outdoor amplified music and a public eating establishment on a 0.31 gross acre site in the CG General Commercial Zoning District, located at/on northeast corner of West Santa Clara Street and Almaden Avenue (CLUB MIAMI/SENORA EMMAS, INC) (177 W SANTA CLARA ST) (Farmers Union, Owner). Council District 3. SNI: None. CEQA: Exempt.

APPROVED (6-0-1; PHAM ABSENT)

POLICE OFFICERS WITH EXPERIENCE WORKING IN DOWNTOWN EXPRESSED CONCERN ABOUT NOISE COMING FROM THE SITE, AND NOTED OTHER OUTDOOR PATIOS HAD SOME SOUND ATTENUATION FEATURES, SUCH AS SOUND WALLS OR TARPS. COMMISSIONER JAMES INQUIRED IF APPLICANT WOULD BE WILLING TO PROVIDE SOME SIMILAR SOUND ATTENUATION MATERIAL IN ADDITION TO THE EXISTING OPEN WROUGHT IRON FENCING, AND THE APPLICANT EXPRESSED WILLINGNESS TO PURSUE OPTIONS. COMMISSIONER LEVY ASKED FOR CLARIFICATION REGARDING HOURS OF OPERATION. STAFF NOTED PERMIT WOULD ALLOW MUSIC ON PATIO, BUT NO DANCING, UNTIL MIDNIGHT 7 DAYS PER WEEK, ALTHOUGH APPLICANT NOTED USUAL OPERATION WOULD HAVE 10 O'CLOCK LIMIT EXCEPT FOR THURSDAY, FRIDAY, SATURDAY, AND EXPRESSED THAT ADDING SOUND ATTENUATION MATERIAL LIKE PLEXI GLASS BEHIND OPEN FENCING MIGHT BE A LOWER HEIGHT THAN SPEAKER LOCATIONS. COMMISSIONER LEVY STATED THIS IS IN DOWNTOWN AND IN ENTERTAINMENT DISTRICT AND COMMISSION SHOULD FACILITATE USES. COMMISSIONER JAMES STATED AESTHETICS SHOULDN'T BE PRIMARY ISSUE OVER REDUCING REFLECTED NOISE FROM MUSIC ON

SITE. COMMISSIONER ZITO COMMENTED SECURITY GUARD REQUIREMENT AFTER 10 P.M. IS APPROPRIATE. COMMISSIONER LEVY STATED HE COULD NOT SUPPORT A NOISE BARRIER WHICH COULD BE 9 FEET TALL AND A GRAFITTI ATTRACTOR, AND COMMISSIONERS CAMPOS AND PLATTEN CONCURRED. DEPUTY DIRECTOR HORWEDEL STATED THIS SITE IS URBAN AND SUBURBAN STANDARDS NOT APPROPRIATE. COMMISSIONER ZITO MOVED STAFF'S RECOMMENDATION WITH DELETION OF DECIBEL LIMIT CONDITION, 10 O'CLOCK TIME LIMIT EXCEPT THURSDAY, FRIDAY, SATURDAY, A SECURITY GUARD IF OPEN PAST 10 P.M., WORK WITH STAFF TO DESIGN NOISE BARRIER. MOTION FAILED FOR LACK OF A SECOND. COMMISSIONER DHILLON PROPOSED THE SAME, BUT WITH 7 DAY A WEEK OPEN UNTIL MIDNIGHT

- b. The items being considered are located on the north and south side of Auzerais Avenue between Sunol Street and Los Gatos Creek in San Jose on a 14.67 gross-acre site (Del Monte Corp, Owner/KB Homes, Applicant). Council District: 6. SNI: Burbank/Del Monte. CEQA: EIR Resolution to be adopted. Continued from 3/9/05.

1. **FINAL ENVIRONMENTAL IMPACT REPORT** for the KB Home Monte Vista Residential Planned Development Zoning Project. The project proposes to demolish the existing cannery buildings on the site and construct up to 390 residential units on 12.47 acres north of Auzerais Avenue, and the conveyance of approximately 2.2 acres south of Auzerais Avenue along the west side of Los Gatos Creek to the City of San José for use as a park.

CERTIFY EIR (6-0-1; PHAM ABSENT)

2. **PDC03-071**. Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 390 single-family attached residences and future public park on a 14.67 gross-acre site.

RECOMMEND DENIAL (6-0-1; PHAM ABSENT)

RECOMMENDED DENIAL OF PROPOSED REZONING AS DRAFTED AND THAT CONSIDERATION SHOULD BE MADE FOR PROJECT INCORPORATING ADAPTIVE REUSE OF HISTORIC BUILDINGS.

THE APPLICANT EXPLAINED PAST EFFORTS TO ANALYZE POSSIBLE HOUSING ALTERNATIVES WHICH WOULD REUSE EXISTING HISTORIC BUILDINGS ON SITE, AND STATED SUCH ASSESSMENTS WERE ALMOST MORE ART THAN SCIENCE. ALEX MARTHEWS OF PAC SJ REVIEWED AN ANALYSIS PREPARED FOR PAC SJ SHOWING THAT DIFFERENT ASSUMPTIONS FOR FUTURE UNIT SALE PRICES COULD RESULT IN A PROFITABLE AND FEASIBLE REUSE ALTERNATIVE PROJECT, AND COMMENTED THAT THE APPLICANT MIGHT BE OVERLY CONSERVATIVE IN ASSUMPTIONS USED FOR THE ANALYSIS PREPARED FOR KB HOME. REPRESENTATIVES OF SEVERAL NEIGHBORHOOD ASSOCIATIONS IN THE AREA, AND SEVERAL AREA RESIDENTS STATED THERE WAS RENEWED INTEREST IN THE HOUSING PROJECT AS BALL

PARK NEGOTIATIONS FOR THE SITE HAD ENDED, THAT PEDESTRIAN ACCESS AND ORIENTATION TO AUZERAIS IS VERY IMPORTANT, THAT THE RIPARIAN CORRIDOR AND THIS LEG OF THE LOS GATOS CREEK TRAIL SHOULD BE PROTECTED AND THE SETBACK FOR THE PROJECT INCREASED, THAT THE CREEK TRAIL SHOULD BE CONNECTED ACROSS AUZERAIS BENEATH THE AUZERAIS BRIDGE, THAT THE BUILDINGS ON SITE WERE SYMBOLS OF SAN JOSE'S HISTORY AS A CANNING COMMUNITY AND THAT MORE EFFORT SHOULD BE TAKEN TO PRESERVE BUILDINGS 2, 3 AND 4 IN A HOUSING PROJECT ALTERNATIVE. THE VICE CHAIR OF THE HISTORIC LANDMARKS COMMISSION COMMENTED THAT THE STYLES OF THE INDIVIDUAL BUILDINGS ON SITE WERE NOT COMMON AND COULD NOT BE REPLACED, AND THAT OTHER PROJECTS SUCH AS THE MARIANI SITE PROJECT BY PULTE HOMES, WERE ADDING EXCITING URBAN CHARACTER TO SAN JOSE BY RETAINING EXISTING OLDER CANNERY BUILDINGS.

SEVERAL OTHER AREA RESIDENTS EXPRESSED SUPPORT FOR THE PROPOSED PROJECT, COMMENTING THAT THE PROJECT WAS NOT PERFECT, BUT WITH ITS LIMITED HEIGHT AND DENSITY, PROVIDED A GOOD INTERFACE WITH THE EXISTING NEIGHBORHOOD, AND STATING THAT STAFF SHOULD CONTINUE TO WORK TO MAKE AUZERAIS AVENUE AN ACTIVE STREET, TO REFLECT THE HISTORY OF THE CANNERIES IN PUBLIC PLAZAS AND SPACES AND THAT THE PROJECT WOULD BE AN ASSET AND ADD A PARK AND TRAIL CONNECTION.

COMMISSIONER LEVY STATED THIS CREEK IS VERY IMPORTANT AND INQUIRED WHAT FURTHER ANALYSIS OF THE PROJECT'S RELATIONSHIP TO THE CREEK HAD OCCURRED. THE APPLICANT RESPONDED THAT WORK WITH STAFF WOULD OCCUR AS THE PROJECT MOVED FORWARD TO WIDEN THE "MOUTH" OF THE TRAIL SETBACK AT THE AUZERAIS AVENUE END BY 25 FEET OR SO. COMMISSIONER ZITO ASKED FOR CLARIFICATION THAT THE PROJECT HAD A 20 PERCENT AFFORDABILITY REQUIREMENT AND THAT THE PARK COULD BUT WAS NOT REQUIRED TO, OCCUR AS A "TURN-KEY" PARK, WHICH THE APPLICANT AND STAFF CONFIRMED.

STAFF CLARIFIED THAT ALTHOUGH ALEX MARTHEWS HAD COMMENTED THAT FEASIBILITY FINDINGS FOR THE REUSE ALTERNATIVES SHOULD BE PART OF THE EIR, THE CITY OF SAN JOSE AND CEQA REGULATIONS DID NOT REQUIRE THEM TO BE IN THE EIR. THE COMMISSION CERTIFIED THE EIR 6-0-1 WITH COMMISSIONER PHAM ABSENT.

IN THE DISCUSSION REGARDING THE PROPOSED REZONING, STAFF CLARIFIED THAT THE ISSUE OF A POSSIBLE SUBGRADE CROSSING AT AUZERAIS FOR THE CREEK TRAIL HAD BEEN ANALYZED AND INCLUDED IN THE EIR AND THAT STAFF DID NOT BELIEVE IT COULD BE ACCOMMODATED WITHIN THE HEIGHT CLEARANCE OF THE

EXISTING BRIDGE. COMMISSIONER LEVY ASKED WHAT FURTHER DISCUSSION HAD OCCURRED REGARDING THE ADAPTIVE REUSE ALTERNATIVE. DEPUTY DIRECTOR HORWEDEL RESPONDED THAT THE HISTORIC LANDMARKS COMMISSION (HLC) HAD DISCUSSED VARIATIONS, WHICH PRESERVED BUILDINGS 2, 3 AND A PORTION OF BUILDING 4 IF THE ECONOMICS WOULD WORK BETTER. IN RESPONSE TO A QUESTION FROM COMMISSIONER LEVY, THE VICE CHAIR OF HLC STATED THAT REUSE OF JUST BUILDINGS 2 AND 3 WAS NOT FULL HISTORIC CONTEXT, BUT COULD WORK WITH USE OF PART OF BUILDING 4, AND THAT BUILDING 4 ARCHITECTURE QUITE UNIQUE, EVEN THOUGH RECENTLY CONSTRUCTED IN 1940'S.

COMMISSIONER LEVY INQUIRED WHAT ADDITIONAL WORK HAD OCCURRED SINCE THE MARCH 9TH HEARING ON INCREASING THE RIPARIAN SETBACK. DEPUTY HORWEDEL RESPONDED THAT A GREATER SETBACK WOULD REQUIRE A REDUCTION IN UNITS AND THAT CURRENT BALANCE OF APPLICANT AND STAFF VIEWS RESULTED IN PROPOSED SETBACK.

COMMISSIONER JAMES COMMENTED THAT A CITY THAT DOESN'T RECOGNIZE ITS HISTORY DOESN'T HAVE HEART AND STATED THE CITY SHOULD MOVE IN THE DIRECTION OF REUSE ALTERNATIVES. COMMISSIONER ZITO STATED HE CONCURRED AND THAT HE RESPECTED KB HOME AS A RESIDENTIAL DEVELOPER IN SAN JOSE, BUT QUESTIONED WHETHER KB IS THE BEST DEVELOPER FOR THIS PROJECT AND STATED THERE COULD BE ANOTHER DEVELOPER THAT COULD DO A BETTER JOB TO SAVE THE HISTORIC RESOURCES.

COMMISSIONER LEVY STATED THAT THE SITE HAS TREMENDOUS RESOURCES WITH THE TRAIL AND PARK FOR THE COMMUNITY, BUT THAT ANY HISTORIC PROJECT SHOULD SAVE THE CANNERY BUILDINGS AND PRESERVE AS MUCH OF THE RIPARIAN CORRIDOR FOR TRAIL AND WILD LIFE AS POSSIBLE, NOTING THIS IS THE FIRST SECTION OF DEVELOPMENT ALONG THIS STRETCH OF THE LOS GATOS CREEK TRAIL AND IF MINIMAL SETBACK IS PROVIDED HERE ON THIS REGIONALLY SIGNIFICANT CREEK, IT COULD HAVE A DOMINO AFFECT ON FUTURE AREA DEVELOPMENT.

IN RESPONSE TO A MOTION BY COMMISSIONER PLATTEN, THE COMMISSION VOTED 6-0-1 TO RECOMMEND THE CITY COUNCIL DENY THE PROPOSED REZONING AS DRAFTED AND CONSIDER ADAPTIVE REUSE.

- c. [CP04-104](#). Conditional Use Permit to allow off-sale of alcoholic beverages at a retail grocery store on a 0.06 gross acre site in the DC Downtown Primary Commercial Zoning District, located at the west side of South 1st Street, 100 feet northerly of Post Street (33 S. 1st St.) (Le Kim Tran, Owner). Council District 3. SNI: None. CEQA: Exempt.

DENIED (4-2-1; ZITO AND DHILLON OPPOSED, PHAM ABSENT)

APPLICANT'S REPRESENTATIVE INDICATED SMALL MARKET BUSINESS DESIRED ABILITY FOR OFF-SALE OF ALCOHOL TO IMPROVE BUSINESS PROFIT LEVEL. IN RESPONSE TO A QUESTION FROM COMMISSIONER ZITO REGARDING PROBABLE PERCENTAGE OF SALES THAT COULD BE ALCOHOL, APPLICANT STATED SPECULATION WAS PREMATURE AS USE NOT STARTED YET. COMMISSIONER CAMPOS ASKED FOR CLARIFICATION ON WHETHER MARKET WOULD SELL FRESH MEAT AND PRODUCE. THE APPLICANT RESPONDED THAT ONLY BROADENING OF ITEMS FOR SALE WAS PROPOSED TO BE ALCOHOL, BEER AND WINE, TO BE CONTROLLED BEHIND THE COUNTER. AREA RESIDENTS AND BUSINESS OWNERS EXPRESSED CONCERN REGARDING NUMBER OF SITES WITH ALCOHOL SALES IN THE AREA. THE APPLICANT RESPONDED THAT MARKET SHOULD HAVE BENEFIT OF DOUBT AS NEW USE. STAFF ASKED FOR CLARIFICATION REGARDING PORTION OF STORE TO BE USED FOR ALCOHOL SALES, NOTING FLOOR PLAN SUBMITTED INDICATED MORE THAN HALF COULD BE ALCOHOL. COMMISSIONER DHILLON REQUESTED A STATUS REPORT ON THE CITY SUBSIDY FOR THE DOWNTOWN ZANOTTO'S GROCERY STORE, AND COMMENTED THAT IT WAS DIFFICULT TO BALANCE A DENIAL OF A SMALL MARKET BUSINESS APPLICATION FOR OFF-SALE OF ALCOHOL BECAUSE MARKET NOT FULL GROCERY STORE AS GROCERY STORES ARE HARD TO ATTRACT IN DOWNTOWN AND THE RDA IS PROVIDING SUBSIDY.

DEPUTY DIRECTOR HORWEDEL COMMENTED CUP COULD LIMIT SHELF SPACE FOR ALCOHOL TO 10% AS REASONABLE, AND CLARIFIED GOAL FOR DOWNTOWN GROCERY STORE IN RESPONSE TO AND SUPPORTIVE OF NEW RESIDENTIAL AREAS DOWNTOWN. COMMISSIONER DHILLON MADE A MOTION TO APPROVE CUP WITH 10% LIMIT ON SHELF SPACE FOR ALCOHOL, WHICH FAILED WITH NO SECOND. COMMISSIONER CAMPOS PROPOSED DENIAL AS RECOMMENDED BY STAFF, COMMENTING STORE WAS NOT ENOUGH LIKE A GROCERY STORE TO KEEP ALCOHOL SALES INCIDENTAL. COMMISSIONERS LEVY, JAMES AND DHILLON EXPRESSED CONCERN ABOUT TRYING TO SUPPORT SMALL BUSINESSES AND INQUIRED WHETHER APPROPRIATE CONDITIONS COULD BE ADDED TO ENSURE BUSINESS COULD OPERATE WITHOUT NUISANCE ISSUES. STAFF RESPONDED THAT WHILE CONDITIONS COULD BE INCLUDED, STAFF CAUTIOUS ABOUT ESTABLISHING BUSINESSES WHICH COULD REQUIRE CONSTANT MONITORING, AND THAT CHECKS OF BUSINESS WOULD LIKELY BE COMPLAINT DRIVEN. IN RESPONSE TO COMMISSIONER DHILLON, STAFF CLARIFIED CUP FIRST PROCESS, AND ABC EXCEPTION WOULD NEED TO BE PROCESSED IF CUP APPROVED.

- d. [C04-102](#). Conventional Rezoning from R-2 Two-Family Residence Zoning District to R-M Multiple Residence Zoning District to allow residential uses on a 0.20 gross acre site, located at the northeast corner of Younger Avenue and North 6th Street (257 E. Younger Ave.) (Roy Family Partnership, Owner). Council District 3. SNI: None. CEQA: Use of San Jose 2020 General Plan EIR, Resolution No. 65459.

NO RECOMMENDATION (PHAM ABSENT)

APPLICANT STATED THAT ONE ADDITIONAL UNIT WOULDN'T LIKELY CHANGE CHARACTER OF NEIGHBORHOOD. STAFF INDICATED ACQUISITION OF MORE PARCELS COULD ALLOW FOR IMPROVED SITE DESIGN IN A PROJECT TO MEET GP DESIGNATION (8-16 DU/AC), AND THAT THE DESIGNATION HAS A RANGE OF APPROPRIATE DEVELOPMENT- NOT A GUARANTEE OF MAXIMUM, AND THAT STAFF LOOKS HARD AT NEIGHBORHOOD CHARACTER IN ASSESSMENT. COMMISSIONER LEVY ASKED WHAT THE PROCESS WOULD BE FOR MODIFICATION OR ADDITION OF A SECOND STORY TO DUPLEX, AND STAFF RESPONDED A SITE DEVELOPMENT PERMIT WOULD BE REQUIRED. STAFF INDICATED ENLARGED DUPLEX COULD WORK AND WOULD HAVE FEWER OPEN SPACE AND PARKING ISSUES. COMMISSIONER DHILLON MOVED STAFF RECOMMENDATION TO DENY WITH COMMISSIONERS CAMPOS, DHILLON AND PLATTEN IN SUPPORT AND COMMISSIONERS ZITO, LEVY AND JAMES OPPOSED, WITH NO QUORUM. COMMISSIONER ZITO MOVED APPROVAL OF THE REZONING STATING EXACT PROJECT DESIGN NOT BEFORE THE COMMISSION, WITH ZITO, LEVY AND JAMES IN SUPPORT, CAMPOS, DHILLON AND PLATTEN OPPOSED, AND NO QUORUM. NO RECOMMENDATION.

- e. [PDC04-068](#). Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 104 single-family detached residences on a 7.6 gross acre site, located on the northeasterly side of Campbell Avenue approximately 1000 feet northwesterly of Newhall Street (1180-1184 CAMPBELL AVENUE) (MMAD Investments, Owner/Andre Hunt-Santa Clara Development Co., Developer). Council District 3. SNI: None. CEQA: Mitigated Negative Declaration.

**RECOMMEND APPROVAL (4-2-1; CAMPOS AND JAMES
OPPOSED, PHAM ABSENT)**

PLANNING STAFF NOTED THAT THE STAFF RECOMMENDATION WAS NOT CORRECT IN THE AGENDA AND THAT THE STAFF RECOMMENDATION SHOULD READ AS FOLLOWS:

CONSIDER THE MITIGATED NEGATIVE DECLARATION AND FIND IT IN COMPLIANCE WITH CEQA. RECOMMEND TO THE CITY COUNCIL CONDITIONAL APPROVAL OF A PROPOSED PLANNED DEVELOPMENT REZONING FROM HI HEAVY INDUSTRIAL ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 96 SINGLE-FAMILY DETACHED RESIDENCES AS CONDITIONALLY RECOMMENDED BY STAFF.

MR. MARK ROBSON, REPRESENTING THE APPLICANT, SUMMARIZED THE DEVELOPER'S PROPOSAL AND GOALS FOR THE PROJECT. THESE INCLUDED CREATING: 1) A WALKABLE PEDESTRIAN FRIENDLY NEIGHBORHOOD, 2) A SENSE OF PLACE, AND 3) COMPATIBILITY WITH THE EXISTING NEIGHBORHOOD.

MR. JOHN URBAN, REPRESENTING THE NEWHALL NEIGHBORHOOD ASSOCIATION, STATED THAT HE BELIEVED THE DENSITY AND ARCHITECTURE PROPOSED ARE COMPATIBLE WITH THE EXISTING NEIGHBORHOOD. HE ADDED THAT THE EXISTING WAREHOUSE ON THE SITE IS RUN DOWN, THAT PARKING AND SETBACKS, AS PROPOSED, ARE ADEQUATE, AND THAT THE ADDITION OF THE ROAD PARALLEL TO CAMPBELL AVENUE AND CONNECTING THE TWO MAIN PRIVATE STREETS ON SITE WOULD HELP WITH CIRCULATION. HE STATED THAT HE THOUGHT THE PROJECT WOULD PRESERVE THE CHARACTER OF THE NEIGHBORHOOD.

COMMISSIONER ZITO HAD QUESTIONS REGARDING THE REDUCTION OF THE NUMBER OF UNITS FROM 104 TO 96. MR. ROBSON STATED THAT THE REDUCTION IN UNITS WAS A LOSS FOR THE CITY AND THAT CHANGES REQUESTED BY STAFF WERE NOT NEEDED BECAUSE THE PACKAGE PRESENTED IS ADEQUATE.

COMMISSIONERS CAMPOS AND JAMES HAD SEVERAL QUESTIONS REGARDING MOTOR COURT AND PEDESTRIAN PASEO WIDTHS AS WELL AS PRIVATE AND COMMON OPEN SPACE. MR. ROBSON STATED THAT THE 30-FOOT VIBRATION SETBACK AT THE REAR OF THE PROPERTY IS COMMON OPEN SPACE. MR. ROBSON ALSO STATED HIS BELIEF THAT THE 22-FOOT WIDE (CURB-TO-CURB) PLUS APRON MOTOR COURTS WERE ADEQUATE FOR AUTO MANEUVERING IN AND OUT OF GARAGES AND USED CAHILL PARK, A PROJECT WITH A 25-FOOT WIDTH GARAGE DOOR-TO-GARAGE DOOR AS A COMPARABLE EXAMPLE. ADDITIONALLY, MR. ROBSON INDICATED THAT THE TURNING TEMPLATES SHOW THE WIDTH WORKS. DEPUTY DIRECTOR HORWEDEL NOTED THAT THE 10-FOOT WIDE PEDESTRIAN PASEOS APPROVED ON ANOTHER PROJECT ACTUALLY HAD 34-FOOT WIDE BUILDING-TO-BUILDING SEPARATION WITH 12 FEET ON EACH SIDE OF THE COMMON 10-FOOT WIDE PATH USED AS PRIVATE OPEN SPACE.

STAFF RESPONDED TO QUESTIONS AND CONCERNS AND ILLUSTRATED RESPONSES WITH IMAGES OF OTHER PROJECTS, AND STATED THAT BY REMOVING FOUR UNITS ON EACH SIDE OF THE PROPERTY, THE SPACE GAINED CAN BE USED TO BRING MOTOR COURTS, PEDESTRIAN PASEOS, AND PRIVATE OPEN SPACE INTO BETTER CONSISTENCY WITH THE RESIDENTIAL DESIGN GUIDELINES. STAFF'S REDESIGN INCREASES SEPARATION BETWEEN BUILDINGS AND PROVIDES OPPORTUNITIES TO PROVIDE THE ADDITIONAL ON-SITE PARKING AND PRIVATE OPEN SPACE NEEDED TO MEET THE RESIDENTIAL DESIGN GUIDELINE STANDARDS.

COMMISSIONER CAMPOS INDICATED THAT HE HAD RECEIVED A LETTER FROM THE APPLICANT REGARDING DISCREPANCIES ON PARKING SPACE COUNTS AND COMMON OPEN SPACE SQUARE FOOTAGE. STAFF EXPLAINED THAT 19 OF THE APPLICANTS 84 PARKING SPACES WERE NOT COUNTED BECAUSE THEY WERE TOO CLOSE TO THE CORNERS OF THE MOTOR COURTS AND PRIVATE DRIVEWAYS, AND STATED THAT TYPICALLY, THE TEN FEET CLOSEST TO THE CORNERS IS NOT USED FOR PARKING TO

ENSURE VISIBILITY AND AN ADEQUATE TURNING RADIUS FOR CARS AND TRUCKS. DEPUTY DIRECTOR HORWEDEL EXPLAINED THAT SMALL EDGES LIKE THE PEDESTRIAN PASEOS, THE SEAT WALLS, AND 10-FOOT PERIMETER SETBACKS ARE NOT COUNTED AS COMMON OR PRIVATE OPEN SPACE, BECAUSE THE SMALL DIMENSIONS AND DEDICATION OF SPACE TO CIRCULATION PATHS ARE NOT USABLE FOR RECREATION ACTIVITIES. STAFF ADDED THAT PROJECT PLANS INDICATE THE 10-FOOT PERIMETER SETBACK MAY BE USED FOR SWALES.

COMMISSIONER CAMPOS INDICATED THE LETTER ALSO CLAIMED THAT PASEO WIDTHS WERE NOT REALLY AN ISSUE, ESPECIALLY CONSIDERING THE 40-FOOT SECOND FLOOR SETBACK. STAFF RESPONDED BY STATING THAT THE SECOND FLOOR SETBACK HAD BEEN TAKEN INTO ACCOUNT AND RESULTED IN A 5-FOOT REDUCTION IN BUILDING-TO-BUILDING SEPARATION FROM THE RESIDENTIAL DESIGN GUIDELINES STANDARD OF 30 FEET. STAFF NOTED THAT THE POLICE MEMO STATED THE WINDOWS OVERLOOKING THE PASEOS WOULD PROVIDE AN ADEQUATE SOURCE OF NATURAL SURVEILLANCE. AS INDICATED IN THE STAFF REPORT AND THE INCLUDED PHOTOS OF THE RAVENNA PROJECT, INCREASED BUILDING-TO-BUILDING SEPARATION INCREASES THE OPPORTUNITY FOR GREATER PRIVATE OPEN SPACE FOR EVERY UNIT, AS WELL AS INCREASING THE PROBABILITY THAT MORE WINDOWS WILL BE OPEN FACING THE PASEOS THEREBY CREATING A SAFE ENVIRONMENT FOR PEDESTRIANS.

COMMISSIONER PLATTEN MADE A MOTION TO APPROVE THE PROJECT WITH STAFF-RECOMMENDED CONDITIONS INCLUDING REDUCING THE UNIT COUNT TO ALLOW MORE PARKING ON SITE, AND WIDER PASEOS THROUGHOUT THE PROJECT.

5. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
 1. Responding to statements made or questions posed by members of the public; or
 2. Requesting staff to report back on a matter at a subsequent meeting; or
 3. Directing staff to place the item on a future agenda.

NONE

- b. Distribution of Draft Environmental Impact Report for a **General Plan Amendment and Planned Development Rezoning** that includes the following scope: 1) Change the site's General Plan Land Use/Transportation Diagram designation from Industrial Park to Mixed Use with No Underlying Land Use Designation, and update the General Plan's Mixed Use Inventory via a text amendment; 2) Rezone the site from Industrial Park to Planned Development to allow a mixed-use project consisting of demolition of some of the existing buildings on the site and creation of up to 2,930 residential units, 460,000 square feet of commercial space, and 3,600,000 square feet of industrial space; 3) Establish a development agreement between Hitachi and the City of San Jose to provide objectives and guidelines for the development of the site; 4) Designate one or more new Arterial and/or Major Collector roadways on the General Plan Transportation Diagram; 5) Modify the Edenvale Area Development Policy to specifically include and provide for the development of the site; and 6) Allow a maximum building height of 120 feet on the project site. File No.: GP04-02-01, GPT04-02-01 (a-d), and PDCSH04-031. (SCH # 2004072110). Council District: 2. Distributed 3-28-05. Scheduled for June 8, 2005 Planning Commission.
- c. Distribution of Draft Environmental Impact Report for the **San Jose Downtown Strategy 2000**, which provides for the development and redevelopment of Greater Downtown San Jose. Strategy 2000 provides a long-range conceptual program for revitalizing the traditional Downtown by allowing higher density infill development and replacement of underutilized uses, and expanding the Greater Downtown Core Area and land use intensities to the west and north into areas that are presently undeveloped and underutilized. Strategy 2000 is an update of the San Jose Downtown Strategy Plan 2010, adopted by the San Jose City Council and the Redevelopment Agency Board on December 15, 1992. The amount of future development anticipated to occur in the expanded Greater Downtown Core Area during the planning horizon of Strategy 2000 includes 8,000,000 to 10,000,000 square feet of office space; 8,000 to 10,000 residential dwelling units; 900,000 to 1,200,000 square feet of retail space; and 2,000 to 2,500 guest rooms of hotel space, in four to five hotel projects. File No.: GP05-03-01 (a-f). (SCH# 2003042127) Council District: 3. Distributed 3-28-05. Scheduled for June 8, 2005 Planning Commission.
- d. Distribution of Draft Environmental Impact Report for the **General Electric Facility Planned Development Zoning**. The project proposes to rezone the site from Heavy Industrial to A (PD) Planned Development Zoning District to allow the development of approximately 646,000 square feet of retail commercial uses. Specific tenants are not known at this time. The property currently contains the existing GE facility, which consists of office/manufacturing buildings, pavement, and limited landscaping. The project proposes to retain the office portion of the historic GE Motor Plant Building. File No.: PDC04-029. Council District: 7. (SCH#2004062104) Distributed 4-06-05. Scheduled for June 8, 2005 Planning Commission.

6. **REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

NONE

7. **GOOD AND WELFARE**

a. Report from City Council

NONE

b. Commissioners' reports from Committees:

- Norman Y. Mineta San Jose International Airport Noise Advisory Committee (Dhillon and James).

COMMISSIONER JAMES REPORTED NEXT MEETING IN TWO MONTHS.

- Coyote Valley Specific Plan (Platten)

COMMISSIONER PLATTEN REPORTED ON DISCUSSION AT TASK FORCE MEETING ON BIKE AND PEDESTRIAN CIRCULATION.

c. **Review of synopsis**

NO CHANGES

8. **ADJOURNMENT**

2005 PLANNING COMMISSION MEETING SCHEDULE

January 12	5:00 p.m. - 6:00 p.m.	<i>Study Session</i>	Room 400
		<i>Discussion of Meeting Logistics</i>	
January 12	6:00 p.m.	Regular Meeting	Council Chambers
January 26	6:00 p.m.	Regular Meeting	Council Chambers
Monday, February 7	4:45 p.m.	<i>Study Session</i>	Room 400
		<i>Discussion of Jobs/Housing Imbalance</i>	
Monday, February 7	6:00 p.m.	Regular Meeting	Council Chambers
February 23	6:00 p.m.	Regular Meeting	Council Chambers
March 9	4:45 p.m.	<i>Study Session</i>	Room 400
		<i>Discussion of General Plan Amendments/development projects</i>	
March 9	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
March 23	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
Monday, April 11	CANCELLED	<i>Study Session</i>	Room 400
		<i>Discussion of Alcohol sales</i>	
Monday, April 11	6:00 p.m.	Regular Meeting	Council Chambers
April 27	6:00 p.m.	Regular Meeting	Council Chambers
Monday, May 2	4:45 p.m.	<i>Study Session</i>	Room 400
		<i>Review CIP</i>	
Monday, May 2	6:00 p.m.	Regular Meeting	Council Chambers
May 11	4:45 p.m.	<i>Study Session</i>	Room 400
		<i>Discussion of Parks planning strategy (Joint session with Parks Commission)</i>	
May 11	6:00 p.m.	Regular Meeting	Council Chambers
May 25	6:00 p.m.	Regular Meeting	Council Chambers
June 8	6:00 p.m.	Regular Meeting	Council Chambers
June 22	6:00 p.m.	Regular Meeting	Council Chambers
July 13	6:00 p.m.	Regular Meeting	Council Chambers
July 27	6:00 p.m.	Regular Meeting	Council Chambers
August 10	6:00 p.m.	Regular Meeting	Council Chambers
August 24	6:00 p.m.	Regular Meeting	Council Chambers
September 14	6:00 p.m.	Regular Meeting	Council Chambers
September 28	6:00 p.m.	Regular Meeting	Council Chambers
October 12	6:00 p.m.	Regular Meeting	Council Chambers
October 26	6:00 p.m.	Regular Meeting	Council Chambers
November 9	6:00 p.m.	Regular Meeting	Council Chambers
November 16	6:00 p.m.	Regular Meeting	Council Chambers
December 7	6:00 p.m.	Regular Meeting	Council Chambers